

**I. Preliminary Matters**

The Examiner has not acknowledged the IDS submitted on August 8, 2001. Accordingly, Applicant respectfully requests that the Examiner acknowledge the August 8, 2001 IDS, and include an initialed PTO 1449 form with the next Action.

**II. Rejection under 35 U.S.C. § 102(b)**

Claim 1 has been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 3,925,788 to Kashio ("Kashio"). Please note, Applicant assumes that the Examiner incorrectly referred to the Ebisawa reference in the first paragraph of the rejection, since the remainder of the rejection is made in view of Kashio. Therefore, the following arguments correspond to the Kashio reference.

Applicant submits that claim 1 is patentable over Kashio. For example, claim 1 recites that a controller drives a pressure generator to eject ink droplets from a nozzle such that a plurality of sub-flushing operations are intermittently repeated in one flushing operation with a first time interval. Each sub-flushing operation includes a plurality of ink ejections, which are repeated for a predetermined time having a second time interval. The second time interval is shorter than the first time interval.

The Examiner maintains that Kashio discloses the above features. However, Applicant believes the Examiner is misinterpreting and/or misapplying the cited reference. For example, when a print command is not received for a set period of time, i.e. 30 minutes, timer 17 of

Kashio produces an output which causes ink pump 13 to be driven for preliminary ejection of ink (col. 3, lines 1-5). In other words, preliminary ejection of ink is carried out upon lapse of each 30-minute time period if printing instructions are not supplied (col. 3, lines 9-14).

In an alternate embodiment, Kashio discloses that preliminary ejection of ink is performed each time a counting cycle of character composing counter 23 is brought to an end (col. 5, lines 4-8). The cycle of counting is disclosed as being 15 to 30 minutes (col. 5, lines 14-16).

Thus, Kashio fails to teach or disclose that a plurality of sub-flushing operations, each including a plurality of ink ejections, are repeated in one flushing operation. Rather, as stated above, the reference just discloses that a preliminary ejection of ink is carried out upon lapse of each time period (col. 3, lines 9-14). Therefore, the reference fails to state that the preliminary ejection of ink is carried out with a plurality of sub-flushing operations, as required by claim 1. (Applicant has prepared and enclosed Fig. A to assist the Examiner's understanding of claim 1 and the cited reference.)

Accordingly, Applicant submits that claim 1 is patentable over the cited reference.

### **III. Rejections under 35 U.S.C. § 103(a)**

A. Claims 1 and 10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,428,380 to Ebisawa ("Ebisawa") in view of Kashio. In regard to claim 1, the Examiner acknowledges that Ebisawa fails to teach or disclose the plurality

of sub-flushing operations, and the first and second time intervals, but contends that Kashio does. However, as stated above, Kashio fails to teach or disclose such features. Therefore, Applicant submits that claim 1 is patentable over the combination of Ebisawa and Kashio.

Also, since claim 10 is dependent upon claim 1, Applicant submits that such claim is patentable at least by virtue of its dependency.

**B.** Claims 6, 7, 14 and 16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of U.S. Patent No. 6,357,846 to Kitahara (“Kitahara”). However, since claims 6, 7, 14 and 16 are dependent, either directly or indirectly, on claim 1, and Kitahara fails to cure the deficient teachings of Kashio, Applicant submits that such claims are patentable at least by virtue of their dependency.

**C.** Claim 9 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of U.S. Patent No. 6,036,299 to Kobayashi et al. (“Kobayashi”). However, since claim 9 is dependent upon claim 1, and Kobayashi fails to cure the deficient teachings of Kashio, Applicant submits that claim 9 is patentable at least by virtue of its dependency.

**D.** Claim 11 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of U.S. Patent No. 5,475,404 to Takahashi et al. (“Takahashi”). However, since

claim 11 is indirectly dependent upon claim 1, and Takahashi fails to cure the deficient teachings of Kashio, Applicant submits that claim 11 is patentable at least by virtue of its dependency.

**E.** Claim 13 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of Kitahara. However, since claim 13 is dependent upon claim 1, and Kitahara fails to cure the deficient teachings of Kashio, Applicant submits that claim 13 is patentable at least by virtue of its dependency.

**F.** Claim 15 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of Kobayashi and Kitahara. However, since claim 15 is indirectly dependent upon claim 1, and Kobayashi and Kitahara fail to cure the deficient teachings of Kashio, Applicant submits that claim 15 is patentable at least by virtue of its dependency.

**G.** Claim 8 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Kashio in view of Kitahara. However, since claim 8 is indirectly dependent upon claim 1, and Kitahara fails to cure the deficient teachings of Kashio, Applicant submits that claim 8 is patentable at least by virtue of its dependency.

Amendment under 37 C.F.R. § 1.116  
U.S. Application No. 09/836,284

#### **IV. Allowable Subject Matter**

As stated previously, the Examiner has indicated that claims 2-5, 12 and 22-24 are allowed. Also, claims 18-21 contain allowable subject matter, but are objected to as being dependent upon a rejected base claim.

#### **V. Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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